

**UNITED STATES BANKRUPTCY COURT
FOR THE EASTERN DISTRICT OF MICHIGAN- NORTHERN DIVISION**

In the Matter of:

**SCOTT A MADER
TINA M MADER**

**CHAPTER 13 PROCEEDING
CASE NUMBER: 19-22073
HONORABLE: DANIEL S OPPERMAN**

Debtor(s)

_____ /

NOTICE OF MOTION TO DISMISS

The Chapter 13 Trustee has filed papers with the court requesting to Motion to Dismiss the above debtor(s) case.

Your rights may be affected. You should read these papers carefully and discuss them with your attorney, if you have one in this bankruptcy case. (If you do not have an attorney, you may wish to consult one.)

If you do not want the court to grant the enclosed Motion to Dismiss, or if you want the court to consider your views on the Motion to Dismiss, within 14 days, you or your attorney must:

1. File with the court a written response or an answer, explaining your position at:○

U.S. Bankruptcy Court
111 First Street
P.O. Box 911
Bay City, Michigan 48707

If you mail your response to the court for filing, you must mail it early enough so the court will **receive** it on or before the date stated above.

You must also mail a copy to:

Thomas W. McDonald, Jr.
Chapter 13 Trustee
3144 Davenport Avenue
Saginaw, Michigan 48602
Telephone: (989) 792-6766

2. If a response or an answer is timely filed and served, the clerk will schedule a hearing on the Motion and you will be served with a notice of the date, time and location of the hearing.

If you or your attorney do not take these steps, the court may decide that you do not oppose the relief sought in the motion or objection and may enter an order granting that relief.

Dated: August 18, 2021

/s/Thomas W. McDonald, Jr.

Thomas W McDonald, Jr.
Chapter 13 Trustee
3144 Davenport Avenue
Saginaw, Michigan 48602
Telephone: (989) 792-6766
ecf@mcdonald13.org

○Response or answer must comply with F.R.Civ. P (8)(b), 8) and (e)

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MOTION TO DISMISS

NOW COMES Thomas W. McDonald, Jr., Chapter 13 Trustee, and states as follows:

- (1) That the debtor hereinabove filed a petition in Chapter 13 Bankruptcy proceedings on October 23, 2019.
- (2) That the debtor's plan was Confirmed January 10, 2020.
- (3) That the plan was filed November 19, 2019 with the intention of paying land contract to Craig Foster Trust at \$268.00 per month plus any arrears of the contract.
- (4) That the Trustee is not able to pay the land contract due to the fact no proof of claim has been filed with the U.S. Bankruptcy Court.
- (5) That the Trustee has been holding money to pay this claim.
- (6) The Trustee cannot administer the Plan as confirmed in violation of 11 USC 1302 and 11 USC 1327 due to the lack of Proof of Claim for the land contract
- (7) That the plan cannot be administered properly.
- (8) That the debtor's acts as described hereinabove as a material default by the debtor with respect to the term of a confirmed plan as required by 11 U.S.C. §1307(c)(6).

WHEREFORE, the Chapter 13 Trustee prays this Honorable court to dismiss this case, and further requests that the Trustee be allowed reasonable time to submit a final report and account regarding the Debtor named hereinabove, and further relief deemed just by this court.

Dated: August 18, 2021

/s/Thomas W. McDonald, Jr.
Thomas W McDonald, Jr.
Chapter 13 Trustee
3144 Davenport Avenue
Saginaw, Michigan 48602
Telephone: (989) 792-6766
ecf@mcdonald13.org

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Thomas W. McDonald, Jr.
Chapter 13 Trustee
3144 Davenport Avenue
Saginaw, Michigan 48602
Telephone: (989) 792-6766
ecf@mcdonald13.org

ORDER DISMISSING CASE

Upon the motion of the Chapter 13 Trustee, pursuant to 11 USC §13078),

IT IS HEREBY ORDERED that this case is DISMISSED.

2. IT IS FURTHER ORDERED that:

- a. The Court retains jurisdiction to receive and pass upon the final report of the Chapter 13 Trustee and to make such further orders with the respect to fees, costs, other distribution and the discharge of the Chapter 13 Trustee as may be necessary or proper;
- b. The order previously entered, requiring the debtor(s) or another to pay over funds to the Trustee, is hereby vacated; and that said persons shall no longer be required to make such payments and are hereby released from further liability with respect thereto;
- c. The debtor(s) shall comply with the requirements of F.R. Bankr.P. 1019.

EXHIBIT A

UNITED STATES BANKRUPTCY COURT
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CERTIFICATE OF SERVICE TRUSTEE'S MOTION TO DISMISS

I, the undersigned, do hereby certify that on August 18, 2021, I have electronically filed the foregoing papers with the Clerk of the Court using the ECF systems which will send notification to any party registered with the ECF System, and hereby certify that I have mailed by the United States Postal Service the Papers to the follow non-ECF participants.

Scott A & Tina M Mader
2823 Longview
Saginaw Mi 48601

/s/Shirley Barber
Shirley Barber
Office of Thomas W. McDonald, Jr.
Chapter 13 Trustee
3144 Davenport Avenue
Saginaw, Michigan 48602
Telephone: (989) 792-6766
ecf@mcdonald13.org